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January 28, 1997

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JAN 31 1997

Federal Communications Commission
Office of Secretary

Competitive Pricing Division
Common Carrier Bureau, Room 518
1919 M Street, N.W.
Washington, DC 20554

RE: CC Docket No. 96-262 - In the Matter of Access Charge Reform; 94-1 - Price Cap Performance Review for Local Exchange Carriers; 91-213 - Transport Rate Structure and Pricing; 96-263 - Usage of the Public Switched Network by the Information Service and Internet Access Providers

Dear Secretary:

Enclosed are an original and seventeen (17) copies of **COMMENTS OF THE MISSOURI PUBLIC SERVICE COMMISSION** for filing in the above-referenced matter.

Please file stamp the extra copy for return to our office. Thank you for your attention to this matter.

Sincerely,

Penny G. Baker
Deputy General Counsel
573-751-6651

PGB/clw
Enclosures

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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Access Providers)

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CC Docket No. 96-263

**COMMENTS OF THE
MISSOURI PUBLIC SERVICE COMMISSION**

I. Introduction

On December 23, 1996, the Federal Communications Commission (FCC) adopted its Notice of Proposed Rulemaking (NPRM), Third Report and Order, and Notice of Inquiry requesting comments on the implementation of regulatory changes to reform interstate access charges to make them compatible with the competitive environment envisioned by the 104th Congress in its passing of the Telecommunications Act of 1996 (1996 Act). The Missouri Public Service Commission (MoPSC) hereby submits comments on the FCC's proposed access charge reform issues that most directly relate to the public utilities within the MoPSC's jurisdiction.

II. Rate Structure Modifications

The MoPSC agrees with the FCC's tentative conclusions as stated in the NPRM¹ :

We tentatively conclude that several provisions in Part 69 of our rules compel incumbent LECs to impose access charges for access services in a manner that does not accurately reflect the way those LECs incur the costs of providing those services. For example, generally the costs associated with the local loop are non-traffic-sensitive (NTS), but our rules require incumbent LECs to recover a portion of those costs through per-minute CCL charges. Similarly, at least some portion of the costs of local switching is NTS, but our rules require incumbent LECs to recover all switching costs through per-minute charges. In these and other cases, our rate structure rules do not send accurate pricing signals to customers, and consequently, encourage inefficient use of telecommunications services. . . .

The current rate structure for the recovery of the interstate allocation of the "local loop" or the "common line" cost is accomplished through a flat rate of \$3.50 per month for residential and single line business users and \$6.00 per month for multi-line business users² with the balance being recovered through usage sensitive rates paid by the interexchange carriers in the form of Carrier Common Line (CCL) charges. Because the local loop is associated with the portion of the telephone plant that is non-traffic sensitive, i.e., the pair of wires connecting the end user's premises with the local switch, the MoPSC agrees that the CCL rates would be best recovered via non-usage sensitive pricing.

A. Common Line-CCL

The FCC has proposed a number of methods for recovery of the CCL charge. The MoPSC supports the adoption of a flat-rated alternative for recovery of these costs, as long as the structure

¹NPRM, paragraph 55.

²This charge is commonly referred to as the End User Common Line (EUCL) charge or the Subscriber Line Charge (SLC).

is competitively neutral, auditable, administratively simple, applied to a common measurable customer base, excludes end user customers and avoids self-reporting. Given the limited descriptions of the six alternative rate structures, the "trunk port and line port" charge appears to offer the best method of recovering these costs from access customers.³

B. Common Line-SLC

The MoPSC supports the CC Docket 96-45 Joint Board recommendation⁴ to the FCC that the current \$3.50 SLC cap should not be increased and, in fact, should be decreased. The intent of Congress in establishing a pro-competitive environment was to lower rates to consumers through competition, including the local market. Congress did not intend that lower rates to one group of consumers (interstate access providers) should be allowed at the expense of another group of consumers (end users), which effectively would occur if the SLC cap is abandoned.

The MoPSC opposes any plan that would increase or eliminate the cap on the SLC or shift additional cost recovery obligations to the end users. The MoPSC also disagrees with the FCC's proposal which allows one set of charges for principal residential end users while different charges are assessed for additional lines or locations other than the principal residence. Such an unauditable system leads to abuse and is administratively burdensome.⁵

³ NPRM, ¶ 61.

⁴ Issued in CC Docket 96-45, released November 8, 1996.

⁵ NPRM, ¶ 65.

III. Prescriptive versus Market Approach

The Telecommunications Act of 1996 radically changed the dynamics of the entire local telephone industry. The historic arrangement of mutually exclusive monopoly territories must now give way to overlapping and competing networks. A full year after the Act, only the first few competitors have actually begun operation. It may well be another year before any significant competition develops beyond these first tentative steps. Interconnection agreements and arbitration activities are in progress or just completed with the initial competitive companies. Once these companies begin operation, it is likely that competition will develop first in the urban areas and slowly spread to the majority of service areas throughout a state. It is unclear how long it will take before competition could or will develop to the extent that competitive forces can be relied upon to bring access rates in line with access costs, but in some locations it may be years before this occurs. Such a stage of competition cannot realistically be expected to develop within a specific time frame, as envisioned by the current NPRM.

While no attempt is made to delineate the conditions that would be necessary for access rates to be reasonably controlled by competition, it is enough to point out that the local residential and business customer choose the interexchange company to carry their out going calls. Incoming calls may be from any of literally hundreds of interexchange companies, chosen by some end user. Access charges are paid by the interexchange companies to the local exchange carriers. The end user, excepting perhaps large businesses, generally neither cares nor even is aware of the access charges being paid. If the party making the purchasing decisions is different from the party that faces the access payment, there is no obvious reason access charges, if they are out of line with costs,

will necessarily face competitive pressures. That is, the signal of high prices does not reach the decision maker.

The MoPSC advocates use of a prescriptive approach until such time when actual competition develops in the marketplace. At that time, a gradual transition to a market-based approach is warranted. The appropriate timing to move from a prescriptive approach to one of competition is best judged by state commissions. The states are closer to the market, better understand the intricacies that may exist and therefore are better able to determine when sufficient competition exists. The appropriate "triggers" for moving from a prescriptive approach should be determined by the states. It may be that market based rates can be phased in to some geographic areas before others, depending on the level and intensity of competition.

It is entirely possible that under certain conditions predicated on a vigorous and thriving competition, competitive forces may be the appropriate mechanism to bring prices in line with costs, but such a necessary level of competition does not currently exist. If access reform is desired in the near future, the effective method for achieving it will be prescriptive.

The MoPSC supports the prescriptive approach to access reform at this time. While the market based approach may be theoretically attractive, competition for switched access is for the most part embryonic and certainly not sufficiently viable or pervasive enough to allow for the hope of a market based approach. The states should decide when and where the triggers have been met to move to a market based system. Regulatory reform must recognize potential for a considerable time lag between authorizing competition and competition reaching sufficient strength to reasonably assured that access rates would come under competitive price pressure.

IV. Separations

Since Separations reform has not been addressed, the MoPSC sees no justification for the elimination of the separations process; whereby the intrastate costs are separated from interstate costs.⁶ Rates and rate structure for LEC access services are developed through a multi-step process. Revenues, costs, investments, and reserves are developed using Part 32 of the Uniform System of Accounts rules. Under the Separations rules of Part 36, these network costs are then allocated to the interstate and intrastate jurisdictions. Costs falling under the federal jurisdiction are recovered through rate elements contained in Part 69.

The NPRM requests comment on issues regarding possible misallocation of costs arising from the separations process. Separations reform must precede, not follow access reform. The MoPSC agrees with NARUC's comments on the diversion of funds for the intrastate jurisdiction:

Some of the changes suggested by the NPRM to reduce interstate access charges have the potential to divert funds traditionally used to support intrastate high costs. Such a shift in jurisdictional support can ONLY be accomplished through a recommendation of the appropriate federal-state joint board.⁷

V. Internet Service Providers

In Section X, paragraph 311 of the NPRM, the FCC established an NOI on implications of information service and internet usage. This is a good example of how the misallocation of costs is caused by the improper assignment of jurisdictional minutes for Internet Service Providers (ISPs). The FCC should prescribe a more reasonable and realistic allocation method for ISP traffic prior to

⁶See section II of NARUC's comments on the NPRM.

⁷See section III of NARUC's comments on the NPRM.

access reform. Presently 100% of the minutes (and therefore the costs) carried by ISPs are allocated to the local jurisdiction based on Dial Equipment Minutes. Obviously, the ISP traffic does not originate and terminate within the local calling scope area. This misassignment causes unjustified costs to the local jurisdiction. The preponderance of ISP usage originates and terminates beyond the local jurisdiction and, therefore, the FCC should prescribe a cost allocation mechanism in this docket for ISP traffic which considers this usage.⁸

Since ISP traffic is significant and increasing, this problem can no longer be ignored. According to a recent 1996 Bellcore study, calling volumes for ISPs are growing at rates of 150 to 200 percent per year.⁹ Internet users also tend to utilize the network for longer periods of time than voice callers. For instance, voice call holding times last an average of three (3) minutes whereas data calls last an average of twenty (20) minutes. In some areas, existing calling volumes of Internet users are already creating some problems in call completion. The Bellcore study found that approximately three percent of all calls are blocked as the result of persons using the Internet.¹⁰ The Bellcore study also found a dynamic shift in peak-period usage and time periods caused by Internet traffic.

A significant share of ISP traffic should be classified as interstate traffic. Internet users access the Internet through an ISP, and can then be connected to any Internet address located outside the user's state. In addition, interstate voice long distance calls can be placed over the Internet. The

⁸NPRM, paragraph 311.

⁹Atai, A. October 1996. The Impacts of Internet Traffic on Local Exchange Carrier Networks and Switching Systems. Bellcore. Document OOC 1013.

¹⁰NPRM, paragraph 315.

physical location of the user and the desired Internet address or called party should be viewed as the respective origination and termination points of Internet usage, not the local connection between the user and the ISP.

The MoPSC recommends that the FCC adopt an allocation method that recognizes realistic jurisdictional Internet usage. The FCC should pursue the measurement capability of ISPs to determine the appropriate jurisdictional nature of their traffic. Absent such measurement capability, the FCC could simply adopt allocation procedures which would assign a reasonable and appropriate designated percentage of ISP usage to the interstate jurisdiction.

VI. Conclusions

The MoPSC continues to support the use of a \$3.50 cap on the SLC and further proposes that a flat rate charge to recover the CCL portion of Common Line be established, possibly the "trunk port or line port", as suggested by the FCC in the NPRM. This method will best accomplish the goals of being competitively neutral, auditable, administratively simple, applicable to a common measurable customer base, excluding end users, and avoiding self-reporting.

The MoPSC advocates the use of a prescriptive approach for the short term until such time when actual competition develops in the market place. Once competition is documented by the state commissioners a gradual transition to a market-based method is appropriate.

Cost allocation of ISP traffic is associated with access rate reform to the extent that costs ultimately play a role in the development of rates. As previously indicated, the MoPSC believes a significant percentage of ISP traffic should be allocated to the interstate jurisdiction. Such a finding

by the FCC could play a role in the development of access rates designed to recover these interstate costs.

Finally, the MoPSC urges that the costs created by ISP traffic should be recovered from ISPs, but acknowledges that there may be other considerations which may play a role in determining how these costs should be recovered. The issue of how jurisdictional costs should be recovered should be left up to the responsible regulatory agency.

Respectfully submitted,

A handwritten signature in cursive script that reads "Penny G Baker".

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